



National Park Service  
U.S. Department of the Interior

Denali National Park and  
Preserve

Kantishna Air Taxi & Air Tour Services  
P.O. Box 132  
Denali Park, Alaska 99755

907-683-2294 phone  
907-683-9617 fax

Page 1 of 50

## Prospectus

A Concession Business Opportunity for the Operation of  
Air Taxi Services between Kantishna Airstrip and McKinley Park Airstrip and  
Scenic Air Tour Services from Kantishna Airstrip  
Within Portions of Denali National Park and Preserve



Solicitation # DENA-KANTISHNA AIR-04

Prospectus under which a concession contract will be awarded for the operation of  
Air Taxi Services between Kantishna Airstrip and McKinley Park Airstrip and  
Scenic Air Tour Services from Kantishna Airstrip  
Within Portions of Denali National Park and Preserve

Date Issued: August 6, 2004

Offers and Any Modifications Must be Received

at:

National Park Service  
Alaska Regional Office  
Attn: Concessions Division  
240 West 5<sup>th</sup> Avenue, #114  
Anchorage, Alaska 99501-2327

OR

Denali National Park and Preserve  
Attn: Concessions Division  
P.O. Box 9  
Milepost 237 George Parks Highway  
Park Headquarters, Mile 3 Park Road  
Denali National Park, Alaska 99755

by:

October 15, 2004 at 4:00pm

Address Questions to:

Ms. Mary Wysong  
Concessions Management Specialist  
P.O. Box 9  
Denali Park, Alaska 99755  
Phone: 907-683-9512  
Fax: 907-683-9610  
e-mail: [Mary\\_Wysong@nps.gov](mailto:Mary_Wysong@nps.gov)

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## SECTION ONE: BUSINESS OPPORTUNITY

### 1) Introduction

The National Park Service (NPS) intends to award a concession contract for commercial air taxi services between Kantishna Airstrip and McKinley Airstrip and scenic air tour services from Kantishna airstrip within Denali National Park and Preserve. The contract to be awarded will be for the period January 1, 2005 through December 31, 2014.

This prospectus is issued to evoke the widest possible interest from qualified applicants in operating these concession services, and to inform interested parties of the requirements and conditions under which the operations may be conducted. The prospectus is issued under the authority of 36 CFR Part 51.

#### **A) The National Park Service and Its Mission**

America's National Park Service was created by Congress to "...conserve the scenery and the natural and historic objects and the wild life therein, and to provide for the enjoyment of the same in such a manner and by such means as will leave them unimpaired for the enjoyment of future generations." Additionally, Congress has declared that the National Park System should be, "...preserved and managed for the benefit and inspiration of all the people of the United States." The National Park Service has as its overall mission the preservation and public enjoyment of significant aspects of the nation's natural and cultural heritage.

To learn more about the National Park Service, visit our website at [www.nps.gov](http://www.nps.gov). This site includes information about who we are, our mission, NPS policies, and individual parks.

#### ***B) Denali National Park and Preserve***

The original area of Denali National Park was dedicated as Mt. McKinley National Park on February 26, 1917, when President Woodrow Wilson signed the McKinley National Park Establishment Act (39 STAT.938) "...for the preservation of animals, birds, and fish and for the preservation of the natural curiosities and scenic beauties thereof. That the said park shall be, and is hereby established as a game refuge."

The park was later expanded until reaching its present size following the passage of the Alaska National Interest Lands Conservation Act (ANILCA) in 1980. The resulting Denali National Park and Preserve was established to protect and interpret the Alaska Range massif, to protect habitat for fish and wildlife, including grizzly bear, moose, caribou, Dall sheep and wolves and to provide opportunity for wilderness recreational use.

### **2) The Contract To Be Awarded under this Prospectus**

One contract will be competed for under this prospectus. The existing contract is held by Kantishna AirTaxi, Inc. and expires on December 31, 2004. The existing concessioner has a right of preference to this contract but must compete in accordance with 36 CFR Part 51. ANILCA Section 1307 preferences also apply (see "Proposal Instructions - Preferred Offeror Determinations).

### **3) The Existing Concession Operation**

The annual reported gross receipts generated by this concession opportunity for the last three years are listed below. This business varies from year to year in the amount of gross receipts. The franchise fee paid by the concessioner was 2% of gross receipts. The Service does not guarantee the economic viability of these opportunities.

The Proposal Package requires Offerors to provide financial projections based upon the business to be operated. Offerors should be appropriately cautious in the use of historical information. The National Park Service will not provide financial projections; therefore, Offerors are responsible for producing their own financial projections.

<u>Gross Receipts</u> <u>2003</u>	<u>2001</u>	<u>2002</u>
Kantishna Air Taxi, Inc. \$232,473.00	\$201,490.00	\$222,390.00

#### **4) Future Concession Operation**

A National Park Service goal is to maintain air taxi services between Kantishna Airstrip and McKinley Airstrip and scenic air tour services from Kantishna airstrip for park visitors in the same scope and manner currently provided. The visitor service to be provided under the terms of the new concession contract is generally the same as those authorized by the current concession contract.

The National Park Service will be establishing an aircraft overflights working group that will include air tour operators, commercial airlines, the military, and other concerned parties to develop voluntary measures for achieving desired resource conditions at Denali. The Concessioner will be invited to be part of this working group when it is convened.

This group will address overflights and ways to mitigate the effects of overflights. Recommendations from this group could encompass voluntary-compliance for aircraft routes that best meet the intended future conditions of different areas of the park. Specific flying routes and other mitigation measures, developed as a result of this group, could be incorporated into future operating plans under this contract.

#### **5) Facilities**

The concessioners are required to base their operations for the services authorized by the Concession Contract outside the boundary of Denali National Park and Preserve. There are minimal facilities provided for under this contract, as identified in the draft operating plan. There is no building improvement plan and no facilities that would result in leasehold surrender interest.

#### **6) Franchise Fee**

The minimum franchise fee for the new contract is \$500.00 or 3% of annual gross receipts, whichever is greater. However, offerors may propose a higher franchise fee in accordance with the terms of the prospectus.

#### **7) Law, Regulation, Policy and Park Information**

NPS Concessions Law, Regulation, Policy and information about Denali National Park & Preserve can all be accessed via the Internet at the following websites. Hardcopies of the law, regulations and policy will be mailed upon request. Contact the person listed on the cover of the prospectus with your request.

<b>Document or Information</b>	<b>Website</b>
Concessions Management Improvement Act of 1998 (P.L. 105-391)	<a href="http://www.nps.gov/akso/concessions/home.htm">http://www.nps.gov/akso/concessions/home.htm</a>  or: <a href="http://www.access.gpo.gov/su_docs/index.html">http://www.access.gpo.gov/su_docs/index.html</a>
NPS Concession Management Regulations - 36 CFR Part 51	<a href="http://www.nps.gov/akso/concessions/home.htm">http://www.nps.gov/akso/concessions/home.htm</a>  or: <a href="http://www.access.gpo.gov/su_docs/index.html">http://www.access.gpo.gov/su_docs/index.html</a>
ANILCA Section 1307 Regulations - 36 CFR Part 13, Subpart D	<a href="http://www.nps.gov/akso/concessions/home.htm">http://www.nps.gov/akso/concessions/home.htm</a>  or: <a href="http://www.access.gpo.gov/su_docs/index.html">http://www.access.gpo.gov/su_docs/index.html</a>
NPS Management Policies, Chapter 10- Commercial Visitor Services	<a href="http://www.nps.gov/policy/mp/policies.pdf">http://www.nps.gov/policy/mp/policies.pdf</a>
Denali National Park & Preserve Website	<a href="http://www.nps.gov/dena">www.nps.gov/dena</a>

## SECTION TWO: PROPOSAL INSTRUCTIONS

**NOTE TO OFFEROR.** THE FOLLOWING INSTRUCTIONS REFER TO THE PERSON OR ENTITY THAT IS SUBMITTING A PROPOSAL AS THE "OFFEROR". WHEN THE WORD "YOU" OR "YOUR" IS USED IN AN INSTRUCTION, THE INSTRUCTION IS REFERRING TO THE OFFEROR.

### 1) **36 CFR Part 51**

This prospectus is issued under 36 Code of Federal Regulations Part 51. If any part of this Prospectus is inconsistent with 36 CFR Part 51, 36 CFR Part 51 will control.

### 2) **Proposal Submission Date**

Proposals must be received by NPS by the due date and time and at the address shown on the front page of this Prospectus. If you intend to mail a proposal it should do so early enough to ensure receipt by NPS by the due date. You also may deliver your proposal to NPS at this address by the time and date shown on the front page of this prospectus. If a proposal is not received by the due date, it will not be considered by NPS.

### 3) **Document Delivery Service**

Document delivery services, including overnight delivery, to some areas may not provide true overnight delivery. You are encouraged to insure the timely submittal of your proposal by contacting the delivery service of their choice regarding delivery availability for the specific location specified on the front page of this prospectus.

### 4) **Proposal Form**

A proposal must generally follow the format provided in the Proposal Package.

### 5) **Proposal Submission Requirements**

**A) Numbering.** Each page and section of a proposal must be numbered.

**B) Copies.** 4 (four) hard copies of a proposal in the format outlined in the Proposal Package must be submitted.

**C) Label.** The copies should be contained in a sealed envelope with the following marked on the envelope:

"CONCESSION PROPOSAL, MAILROOM DO NOT OPEN."

The due date specified in the Prospectus for receipt of the proposal by NPS.

The name and address of the Offeror.

### 6) **Public Availability of Proposals**

#### **A) Confidential Information.**

If you believe that a proposal contains trade secrets or confidential commercial and financial information that you do not want to be made public, please include the following sentence on the cover page of each copy of the proposal:

*"This proposal contains trade secrets and/or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the Freedom of Information Act. The Offeror requests that this information not be disclosed to the public, except as may be required by law."*

In addition, you must specifically identify what you consider to be trade secret information or confidential commercial and financial information on the page of the proposal on which it appears, and you must include the following sentence on each such page:

*"This page contains trade secrets or confidential commercial and financial information that the Offeror believes to be exempt from disclosure under the*



*Freedom of Information Act, and which is subject to the non-disclosure statement on the cover page of this proposal."*

**B) Public Release.**

Information so identified will not be made public by NPS except in accordance with law.

**7) Questions**

If you do not understand something in this prospectus, you must submit your questions in writing to the contact person identified on the cover of the Prospectus, no later than 30 days in advance of the proposal due date. NPS will respond to your question in writing, and will provide the question and response to all other persons who requested a Prospectus. Questions submitted after this date may not be answered. Because NPS must provide equal information to all potential offerors, there must be sufficient time allowed to inform all interested parties of any questions and answers.

**8) Evaluation of Proposals**

**A) NPS Review.**

In order to select the best proposal, NPS will review each proposal received by the due date under the selection factors stated in this prospectus.

**B) Merits of the Proposal.**

For each selection factor, NPS will assign a score that reflects the merits of the proposal under that selection factor in comparison to the other proposals received. The selection factors and range of possible scores are stated in the Proposal Package.

**9) Selecting the Best Proposal**

NPS will select the proposal with the highest total point score as the best proposal, unless this contract is subject to a right of preference is applicable (see next section). If two or more proposals receive the same highest point score, then NPS will select as the best proposal (from among the proposals with the same highest point score) the proposal that NPS determines will, on an overall basis, best achieve the purposes of 36 CFR Part 51.

**10) Preferred Offeror Determinations**

There are two types of preferences applicable to this solicitation, as follows:

**A) ANILCA Section 1307.**

The Alaska National Interest Lands Conservation Act (ANILCA), Section 1307 (16 U.S.C. 3197) includes provisions concerning persons and entities who are to be given special rights and preferences with respect to providing commercial visitor services in conservation system units in Alaska - Historical Operators and Preferred Operators.

Historical Operator means "the holder of a valid written authorization from the Director to provide visitor services within a park area that on or before January 1, 1979, was lawfully engaged in adequately providing such visitor services in the applicable park area." (36 CFR 13.81(d)). The National Park Service has determined that there are no historic operators for this service.

Preferred Operator means "a Native Corporation that is determined under 36 CFR Sec. 13.85 to be 'most directly affected' by the establishment or expansion of a park area by ANILCA, or a local resident as defined in this subpart." (36 CFR 13.81(h)). Local Resident is defined in 36 CFR 13.81 (f).

Doyon Limited, AHTNA Regional Corporation, Cook Inlet Regional Corporation and MTNT village corporation have all been determined by the National Park Service to be Native corporations "most directly affected" by the establishment of Denali National Park and Preserve and consequently are Preferred Operators. Other Native Corporations may apply for this same determination in conjunction with this solicitation, pursuant to 36 CFR 13.85(d). See Proposal Package - ANILCA Section 1307 Preferred Operator Application.

Local residents (individuals and corporations) may apply for the Preferred Operator preference in conjunction with this solicitation, pursuant to 36 CFR 13.83(b). See Proposal Package - ANILCA Section 1307 Preferred Operator Application.



The Native Corporations determined to be "most directly affected" and local residents have equal preference. (36 CFR 13.83(c))

See 36 CFR Part 13, Subpart D for a description of how these preferences are exercised. In general, in the event that the best proposal received is from a non-preferred Offeror, the Preferred Operator that submitted the best proposal from among all Preferred Operator proposals will be entitled to match the terms of the better proposal. In the event that the best proposal received is from a Preferred Operator, that Preferred will be selected for award of the contract.

Certain provisions of 36 CFR Part 13, Subpart D and the draft concession contract relevant to joint ventures, subconcessions and management agreements are reproduced below for the convenience of the Offeror.

"An offer from a preferred operator under this subpart, if the offer is in the form of a joint venture, will not be considered valid unless it documents to the satisfaction of the Director that the preferred operator holds the controlling interest in the joint venture."  
(36CFR13.83(d))

"Subconcession or other third party agreements, including management agreements, for the provision of Visitor Services required and/or authorized under this CONTRACT, whether in consideration of a percentage of revenues or otherwise, are not permitted."  
(Addendum 1, General provisions, 3d)

#### **B) National Park Service Concessions Management Improvement Act.**

The National Park Service Concessions Management Improvement Act (P.L. 105-391) also includes a preference for a preferred Offeror to the award of a qualified concession contract. Note that the definition of Preferred Offeror under this statute and regulation (36 CFR 51.27) is very different than the definition of Preferred Operator under ANILCA Section 1307.

The NPS has determined that all of the existing concessioners have a right of preference to their respective draft concession contracts as the anticipated gross receipts of the draft contracts are less than \$500,000 for the first year of operation and the existing concessioners otherwise meet the requirements for a right of preference.

See 36 CFR Part 51, Subpart E for a description of how this right of preference is exercised. In general, if the proposal submitted by the existing concessioner is not selected as the best proposal, NPS will advise the existing concessioner of the better terms and conditions of the best proposal that the existing concessioner must match. If the existing concessioner does so (by amendment of its proposal) within the time allowed, it will be further considered (subject to the provision in next paragraph, below) for award of the concession contract. If it does not, then the offeror that submitted the best proposal will be selected for award of the contract (subject to the preferences and process described under ANILCA Section 1307, above). An existing concessioner must submit a responsive proposal in order to exercise a right of preference.

#### **C) Relationship between the two preferences.**

The rights of preferred operators under ANILCA Section 1307 take precedence over the right of preference granted to existing satisfactory NPS concessioners (36 CFR 13.83(c)).

### **11) Only "Responsive" Proposals will be Considered by NPS.**

#### **A) What is a Responsive Proposal?**

A responsive proposal within the meaning of this prospectus is a proposal submitted by the due date that is determined by NPS as agreeing to all of the minimum requirements of the draft concession contract and prospectus and as having provided the information required by the prospectus.

#### **B) What is a "non-responsive proposal?"**

A "non-responsive proposal" is a proposal that is not submitted on time, or, does not agree to all of the minimum requirements of the proposed concession contract and prospectus, or, does not provide the information required by the prospectus.

#### **C) What happens if a proposal is determined to be non-responsive?**

A non-responsive proposal will not be considered by NPS.

## **12) Congressional Review Period**

Concession contracts issued for a term of more than ten years or where the annual gross receipts are anticipated to exceed \$5,000,000 are required by law to be submitted to the Congress for sixty days before they may be awarded. The new concession contract will not be submitted to the Congress because the term is not more than ten years and the anticipated gross receipts are less than \$500,000.

## **13) Important Conditions and Cautions Regarding Submission and Evaluation of Proposals**

### **A) Written Information Only.**

All information regarding this prospectus will be issued in writing. No NPS or other government official is authorized to make substantive oral representations relating to this prospectus, and no one may rely on any oral representations made by government officials with respect to this prospectus.

### **B) Entire Proposal.**

Your proposal should address all of the selection factors and any related subfactors. Proposals should respond to all questions and provide all requested information. If a question or requested information is not applicable to a proposal, the proposal should state this in response to the question or request for information. The NPS will review the entire Proposal Package to determine whether your proposal in fact accepts without condition the terms and conditions of this Prospectus. If not, your proposal may be considered non-responsive, even though you submitted an unconditional Offeror's Transmittal Letter.

### **C) Incorrect Information.**

If you consider a statement or information in the Prospectus is be incorrect, you must submit comments to NPS in writing no later than thirty days prior to the due date for proposals. Comments should be sent to the office named on the cover of this prospectus for the receipt of proposals.

### **D) Thorough Review.**

The information contained in this Prospectus is provided to allow persons the ability to understand the terms and conditions of the draft concession contract. You are encouraged to thoroughly review the entire prospectus to identify all required information and documents that must be submitted as part of a proposal before beginning to prepare a proposal.

### **E) Expanded Facilities or Services.**

Unless this prospectus expressly requests otherwise, offers to expand the scope of facilities, equipment, and/or services to be provided beyond those called for in this Prospectus will not be considered by NPS in the evaluation of proposals.

### **F) Additional Benefits to the Government.**

A proposal to provide direct or indirect financial or other benefits to the park area or government that are not within the scope or requirements of the prospectus will not be considered in the evaluation of proposals.

### **G) Financial Feasibility.**

All financial commitments made in your proposal will be closely reviewed and analyzed against your financial statements and supporting documents to determine the feasibility of your proposal.

### **H) Complete Offer.**

Your proposal must reflect the complete offer that you intend to make. NPS will consider written proposals as the full and final offer in response to the prospectus, and intends to make its selection on the written information provided in proposals. Proposals should be prepared on the assumption that NPS knows nothing about you or your proposal. Proposals should also be prepared on the assumption that NPS does not have any documents previously provided by you to NPS. This is true even if you are the existing concessioner or operate another NPS concession within the park area or elsewhere. Proposals may not reference information or documents previously provided to NPS. Copies of any information or documents that you wish to be considered must be must be submitted as part of a proposal.

### **I) Amendment or Cancellation of this Prospectus.**

This Prospectus sets forth the terms and conditions under which the concession operation is to be conducted. NPS may amend this Prospectus and/or extend the submission date (prior to the proposal due date). NPS may cancel a solicitation at any time before the award of the draft concession contract if NPS determines in its discretion that this action is appropriate in the public interest. No person obtains legal rights as a result of an amended, extended, canceled or reissued solicitation for this concession contract.

**J) Additional Information.**

NPS may request from any person who submitted a timely proposal a written clarification of its proposal. Clarification refers to making clear any ambiguities that may have been contained in a proposal, but does not include amendment or supplementation of a proposal. You may not amend or supplement your proposal after the submission date unless requested by NPS to do so, and, unless NPS provides all offerors that submitted proposals a similar opportunity to amend or supplement their proposals.

**K) Execution of the New Contract.**

The offeror selected for award of the concession contract must execute the concession contract promptly after selection within the time established by NPS. If the selected offeror fails to execute the concession contract within the time period specified by NPS, the Director will select another proposal for award of the concession contract, or will cancel the solicitation and may resolicit the draft concession contract.

**L) Additional Terms and Conditions.**

NPS may include as terms of the final concession contract appropriate elements of the proposal selected for award of the concession contract. Do not make proposal commitments that you are not prepared to fulfill.

**M) Independent Assessment.**

You are responsible for undertaking an independent assessment of this business opportunity. All of the statements made in this prospectus regarding the nature of the business and its likely future are only opinions of NPS. You may not rely on any representations of NPS in this regard.

**14) Offeror's Transmittal Letter and Accompanying Proposal.**

The proposal you are to submit consists of two parts, an Offeror's Transmittal Letter and accompanying proposal. The formats for these documents are contained in Section 4 of this prospectus.

The Offeror's Transmittal Letter states your acceptance of the terms and conditions of the concession opportunity as set forth in this prospectus. It states that you will comply with the required elements of the contract and related terms of the prospectus. The letter must bear original signatures and be included in your proposal. If submitted by a corporation or other business entity, persons authorized to enter into contracts on behalf of the entity must sign it.

The proposal that accompanies the Offeror's Transmittal Letter is in two parts, A and B.

**15) Who Must Sign the Offeror's Transmittal Letter?**

The Proposal Package is drafted upon the assumption that an Offeror is the same legal entity that will execute the draft concession contract as the Concessioner. If the entity that is to be the Concessioner is not formally in existence as of the time of submission of a proposal, a proposal must demonstrate that the individuals or organizations that intend to establish the entity that will become the Concessioner have the ability and are legally obliged to cause the entity to be financially and managerially capable of carrying out the terms of the contract in accordance with the terms of the offeror's proposal. In addition, the Offeror must unconditionally state and guarantee in its proposal that the Offeror will provide the Concessioner with all funding, management and/or other resources that the proposal offers.

## **SECTION THREE: PROPOSAL PACKAGE**

### *Proposal Package*

**Department Of Interior**

**National Park Service  
Denali National Park and Preserve**

**Proposal to Operate  
Air taxi Services between Kantishna Airstrip and McKinley Park Airstrip  
and Scenic Air Tour Services from Kantishna Airstrip  
Within Portions of Denali National Park and Preserve**

**Note to Offeror.** The following documents refer to the person or entity that is submitting a proposal as the "offeror". When the word "you", "your", "we", or "our" is used in an instruction or in a proposal it is referring to the offeror.

## OFFEROR'S TRANSMITTAL LETTER

To: Paul R. Anderson, Superintendent  
Denali National Park and Preserve  
P.O. Box 9  
Denali Park, Alaska 99755

Dear Mr. Anderson:

We hereby agree to provide commercial air taxi and scenic air tour services at Denali National Park and Preserve in accordance with the terms and conditions specified in the draft Concession Contract provided in the prospectus issued by the public notice in the Federal Business Opportunities (solicitation # DENA-KANTISHNA AIR-04), and to execute the final Concession Contract without substantive modification (except as may be required by National Park Service pursuant to the terms of the prospectus).

We are enclosing the required "PROPOSAL" which, by this reference, is made a part hereof.

We certify that the information furnished herewith is true to the best of our knowledge and belief. We agree to meet all the minimum requirements of the draft concession contract, and the prospectus, and that we have provided all of the mandatory information specified in the prospectus.

We certify in accordance with 43 CFR Part 12 regarding debarment, suspension, ineligibility and voluntary exclusion the following:

Any of the individuals or entities seeking participation in this Concession Contract are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from a public transaction by a federal department or agency.

Within the three years preceding submission of the Proposal, none of the individuals or entities seeking participation in this Concession Contract have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, or for violation of federal or state antitrust statutes or for commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property.

None of the individuals or entities seeking participation in this Concession Contract are presently indicted for or otherwise criminally or civilly charged by a federal, state or local unit of the government with commission of any of the offenses.

The individuals or entities seeking participation in this Concession Contract have not had one or more public transactions (federal, state or local) terminated for cause or default within the three-year period preceding the submission of the Proposal.

We agree that by submitting this Proposal, we will, if selected for award of the new concession contract:

1. Comply with the minimum terms and conditions of the prospectus as identified in Part A of this proposal package.
2. To complete the execution of the final Concession Contract within thirty working days after it is presented by the National Park Service.

BY \_\_\_\_\_  
(Type or Print Name) (Date)

\_\_\_\_\_  
Original Signature

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

CERTIFICATE OF CORPORATE OFFEROR  
(Offerors who are not corporations should skip this certificate)

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of the corporation named as Offeror herein; that \_\_\_\_\_, who signed this proposal on behalf of We, was then of said corporation; that said proposal was duly signed for and in behalf of the corporation by authority of its governing body within the scope of its corporate powers.

BY \_\_\_\_\_  
(Type or Print Name) (Date)

\_\_\_\_\_  
Original Signature

TITLE \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

## ANILCA Section 1307 Preferred Operator Application

Please refer to the ANILCA Section 1307 regulations, referenced in the Business Opportunity, to answer the following questions:

(1) Is the entity making this offer a local resident, as defined in 36 CFR 13.81(f), for the services offered under this prospectus?

☐

Yes

☐

No

*For individuals:* To qualify as a local resident, each of the following elements must be met and you must provide documentation, as described in the regulations, to establish each element.

**Check each element which applies:**

\_\_\_\_\_ The Offeror has lived within the local area<sup>1</sup> for 12 consecutive months before the date this prospectus was issued (see issue date on cover);

\_\_\_\_\_ The Offeror has maintained their primary permanent residence and business within the local area and/

\_\_\_\_\_ Whenever absent from this primary, permanent residence, the Offeror has the intention of returning to it.

Factors demonstrating the location of an individual's primary, permanent residence and business may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska, tax return and voter registration.

*For corporations:*

\_\_\_\_\_ The controlling interest<sup>2</sup> in the corporation is held by an individual or individuals who qualify as local resident(s) (see above).

\_\_\_\_\_ If the Offeror is a non-profit corporation, a majority of the board members and a majority of the officers qualify individually as local residents (see above).

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<sup>1</sup> Local area means an area in Alaska within 100 miles of the location within the park area where any of the applicable visitor services are authorized to be provided.

<sup>2</sup> Controlling interest means, in the case of a corporation, an interest, beneficial or otherwise, of sufficient outstanding voting securities or capital of the business so as to permit the exercise of managerial authority over the actions and operations of the corporation or election of a majority of the board of directors of the corporation. See 36 CFR 13.81(b) for additional information.



(2) Are you applying for "most directly affected Native corporation" status, as defined in 36 CFR 13.85? *If yes, provide the documentation to support this determination, as described in these regulations.*<sup>3</sup>

☐

Yes

☐

No

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<sup>3</sup> Doyon Limited, Cook Inlet Region Incorporated, Ahtna, and MTNT Limited have previously been determined to have "most directly affected" Native corporation status for Denali National Park & Preserve. These entities do not need to resubmit supporting documentation.

## PROPOSAL

### PART A:

#### Agreement to the Minimum Terms and Conditions

- 1) **All Terms and Conditions.** We agree to comply with all terms and conditions of the concession contract and related prospectus, including compliance with all applicable laws under the terms and conditions specified in the draft concession contract.
- 2) **Approved rates.** We agree to operate at the currently approved rates for this concession operation during the term of the concession contract until such time as a new rate schedule is approved by NPS.
- 3) **Operating Plan.** We agree to the terms of the Operating Plan included as an exhibit to the draft concession contract.
- 4) **Equal Employment Opportunity.** We agree to implement an equal opportunity program and comply with the terms of the Equal Employment Opportunity and handicapped access requirements of the concession contract.
- 5) **Insurance.** We agree to meet the public liability and property insurance requirements of the concession contract and to provide property and liability insurance of at least the types and levels of coverage described in the concession contract.
- 6) **Franchise Fee.** We agree to pay at least the minimum franchise fee for the final concession contract stated in the prospectus. Any higher fee that we offer is stated under Principal Selection Factor 5 below.

## PART B

### Response to the Requested Information

#### PRINCIPAL SELECTION FACTOR 1. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROTECTING, CONSERVING, AND PRESERVING RESOURCES OF THE PARK AREA.

(Scoring: 0-5)

**Note to Offeror:** This selection factor is concerned with environmental objectives that relate specifically to the protection of the particular resources of the park area. Environmental objectives for improvement of the natural environment in general (waste reduction, fuel efficiency, recycling, etc.) are addressed under *secondary selection factor 1*. Please avoid overlap between your response here and your response to secondary selection factor 1.

Responses to these items may be used to identify a superior offer and if approved, will be incorporated into the contract.

1. **Wildlife Protection.** Please describe how you will conduct your operations to minimize impacts on wildlife.

At a minimum, discuss:

Any proposed mitigation measures that go beyond minimum requirements, such as approach distances, altitudes, route selection, aircraft operation, pilot training or client orientation.

2. **The Natural Environment.** Please describe how you will conduct your operations in a manner that will minimize impacts on the natural environment of the park area.

At a minimum, discuss:

- a. Environmental protection measures related to fuel handling, oil spills, and minimizing emissions.
- b. The training that will be provided to guides regarding protecting the natural environment,
- c. The orientation and information given to clients aimed at protection of the environment.
- d. Any measures you will take to protect the natural sound environment.

3. **The Social Environment.** Please describe how you will conduct your operations in a manner that will minimize impacts on other park visitors.

At a minimum, discuss:

Operating procedures aimed at reducing impacts on other park users. Potential impacts might include visual, noise, congestion, and employee conduct.

**PRINCIPAL SELECTION FACTOR 2. THE RESPONSIVENESS OF THE PROPOSAL TO THE OBJECTIVES, AS DESCRIBED IN THE PROSPECTUS, OF PROVIDING NECESSARY AND APPROPRIATE VISITOR SERVICES AT REASONABLE RATES.**

(Scoring: 0 – 5)

1. Please describe the scope of operations proposed for the air taxi between Kantishna airstrip and McKinley Park airstrip and scenic air tours from Kantishna service including scheduling, reservation systems, and off-site facilities/base of operations.
2. Please describe aircraft to be utilized including number, types, and standard equipment. Describe the aircraft maintenance program.
3. Please provide all information regarding licensing and certifications required for providing commercial airtaxi and flightseeing services, including the following:  
FAA Certification - what types/how long/where/# hours in type  
Emergency Procedures  
Flight Following and proposed variations  
Safety Program  
Pilot Qualification and Experience  
Pilot standards, training and proficiency
4. It is the goal of the NPS to provide visitors with opportunities to learn about the park's purpose and significance, natural and cultural resources, park regulations and safety information for the trip. Describe how you would address these topics.
5. What changes, if any, would you propose to the draft operating plan? Suggested changes may be used for the purpose of recognizing a superior offer and, if approved, will become a contract requirement.
6. Please provide the proposed rates you would charge visitors to use the airtaxi and flightseeing services. **Note to Offeror:** The rates you propose must also be reflected in your financial projections submitted in response to principal selection factor 4. Please note that any proposed rate schedule is not binding on NPS. All rates to be charged the public are subject to NPS approval in accordance with NPS rate approval guidelines.

**PRINCIPAL SELECTION FACTOR 3. THE EXPERIENCE AND RELATED BACKGROUND OF THE OFFEROR, INCLUDING THE PAST PERFORMANCE AND EXPERTISE OF THE OFFEROR IN PROVIDING THE SAME OR SIMILAR VISITOR SERVICES AS THOSE TO BE PROVIDED UNDER THE CONCESSION CONTRACT.**

Scoring: 0-5

**Note to Offeror:** In the event that you (the offeror that signed the Offeror's Transmittal Letter) are not the legal entity that is to be the concessioner under the final concession contract, please explain your relationship to the proposed concessioner and provide the information described below with respect to both you and the proposed concessioner as applicable.

**1. Who is the Offeror?**

- (a) Describe the business entity (i.e. sole proprietor, partnership, corporation, limited liability company, etc.) submitting this proposal. If that entity is related to any other entity, disclose all related entities. (For example, if the entity applying for the contract is a subsidiary of a larger corporation, the parent company and any other related businesses in the corporation should be disclosed.) If the offeror is a sole proprietor and that sole proprietor has other operations under different business names, those other operations should be disclosed as well.

**Note to Offeror:** Please use the Business Organization forms contained at the end of the proposal package for this purpose.

**2. Organization and Personnel.**

- (a) Describe the principal lines of authority within your business organization. If an organization chart is appropriate for the size of your operation, please provide an organizational chart as well.
- (b) Please state the function of all identified key positions (including duties, number of people supervised, estimated hours per week performing role, etc.).
- (c) Please state the decision-making authority of on-site managers and identify the person with whom NPS will deal regarding day-to-day operations and issues.

**3. Experience.**

- (d) Please state how long you have been providing services similar to those that are to be provided under the contract.
- (e) Please state in detail your overall background and experience in operating commercial aircraft.
- (f) List all aircraft accidents and incidents of your company and personnel in the last 10 years. List each aircraft accident and incident and give the name of the person, date and place of occurrence, and copy of any relevant accident or incident report.

"Aircraft accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage.

"Incident" means an occurrence other than an accident, associated with the operation of an aircraft, which affects or could affect the safety of operations.

- (g) List all FAA violations of your company and personnel in the last 10 years. List each violation and give the name of the person, date and place of occurrence, action taken, and submit a copy of the official report submitted to the FAA, NTSB or other authority.
- (h) Is your company a member of any Tour Operator or Aircraft Operator Safety Program?
- (i) For informational purposes: Is your company an OAS approved vendor? For point-to-point or special use?
- (j) Please submit resumes of key individuals that you will employ to carry out management and operations under the contract. At the minimum, these should include chief pilot, director of operations and director of maintenance. **Note to Offeror:** Please use the resume form contained at the end of the proposal package of the prospectus.

## PRINCIPAL SELECTION FACTOR 4. THE FINANCIAL CAPABILITY OF THE OFFEROR TO CARRY OUT ITS PROPOSAL.

**Scoring: 0-5**

**Note to Offeror:** In the event that you are not the legal entity that is to be the concessioner under the concession contract, please explain your relationship with the proposed concessioner and provide the information described below with respect to both you and the proposed concessioner as applicable.

### Section 1. The Availability of Funds to Operate the Concession.

a. Please list in the table below the property, by item or groups of items, with monetary value over \$500 that you will be using for this operation.

Personal Property Items	Quantity	Total Value	Currently Own? (yes/no)

b. Please estimate the amount of money that you will need to begin operating the business. Only provide estimates for those items that you need to acquire in order to begin operating. Do not include items that you already own. For cash, estimate the amount of cash that you will need to have available (after purchasing equipment; supplies; and "other") in order to begin operating the business. Please use the form below to provide your estimates.

Equipment \$ \_\_\_\_\_

Supplies \$ \_\_\_\_\_

Cash \$ \_\_\_\_\_

Other (Describe on separate page) \$ \_\_\_\_\_

**TOTAL FUNDS NEEDED** \$ \_\_\_\_\_

c. Please state the source of the needed funds estimated above.



d. Please document your ability to obtain these funds (or that you already have them). The documentation must be sufficient to convincingly demonstrate to NPS that the funds are available to you. For example, provide bank statements that demonstrate that you have the funds in hand, or, provide an appraisal of any of your assets that will be sold to obtain the funds, or, if you intend to borrow all or part of the funds, provide a commitment letter from the source of the borrowed funds. If you intend to borrow the funds, please explain in detail the financial arrangements of the loan.

## Section 2 – Current Financial Position of the Offeror

a. Provide copies of your financial statements for the two most recent fiscal years. If financial statements have been audited, include the related audit report, notes to the financial statements and similar explanatory material. For sole proprietors, the financial statement will be a personal financial statement and should include both an income statement and a balance sheet. An income statement lists all of your income and expenses for your most recent fiscal year. A balance sheet lists everything that you own and everything that you owe as of the day that you apply (or, if you prefer, as of the last day of your most recent fiscal year).

b. Credit Information

- 1) List any Foreclosures, Bankruptcies, Transfer in Lieu of Foreclosure and/or Work-Out/Loan Modification Transactions during the *past 10 years*. (If none, so indicate.) Include the name of the property, the city and state, the property type, the approximate loan amount, the lender, and the year of the event. Include an explanation of circumstances, including resolution, bankruptcy plan, and/or other documentation as appropriate.
- 2) Describe any pending litigation or current lawsuits that will materially impact your financial position if adversely resolved.
- 3) Provide a current credit report for the entity submitting the proposal.

## Section 3 - Demonstrate the financial feasibility of your proposed operation.

a. Estimate the amount of income and expenses for the proposed operation. Provide this estimate by completing the prospective income statement on the following page. The prospective income statement is a form to use to estimate the income and expenses for the proposed operation. Blank lines are included on the prospective income statement if you need to provide estimates for expense categories that are not listed. (Describe the categories on the blank lines.) Only revenues and expenses related to the services authorized by the contract (inside the park) are to be included in your prospective income statement, not other services outside the park.

Explain the assumptions that you used in developing your estimates. More detail is preferred over less. At a minimum, provide:

### Revenue

- The estimated number of trips per proposed trip type, and the estimated number of clients by trip.
- The estimated revenue per proposed trip. (If the estimated revenue is not the total of client rates for the estimated number of clients, explain the reason for the difference and how you calculated it.)

### Expenses

- Provide the basis for estimating your expenses (such as your past expenses or quotes provided to you)



PROSPECTIVE INCOME STATEMENT FORMAT

Annually for Term of Contract

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Year 6</u>	<u>Year 7</u>	<u>Year 8</u>	<u>Year 9</u>	<u>Year 10</u>
<b>Gross Receipts</b>	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Salaries & Wages	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Payroll Taxes & Benefits	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Operating Supplies	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Office Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Depreciation & Amortization	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Repair & Maintenance	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Insurance	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Advertising	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Interest	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Legal & Accounting	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Car & Truck Expenses	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Travel, Meals & Entertainment	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
NPS Franchise Fees	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
Total Expenses	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Net Income	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

**PRINCIPAL SELECTION FACTOR 5: THE AMOUNT OF THE PROPOSED FRANCHISE FEE AND/OR OTHER FORMS OF FINANCIAL CONSIDERATION TO NPS**

Scoring: 0-4

**Note to Offeror:** The minimum franchise fee for the draft contract is \$500.00 or 3 % of annual gross receipts, whichever is greater.

The offer of a higher franchise fee is generally beneficial to the NPS, and, accordingly, generally will result in a higher score under this selection factor. However, consideration of revenue to the United States is subordinate to the objectives of protecting, conserving, and preserving resources of the park area and of providing necessary and appropriate visitor services to the public at reasonable rates.

Please state the franchise fee you offer as a percentage of annual gross receipts.

\_\_\_\_\_ % of annual gross receipts or \$500, whichever is greater.

**SECONDARY SELECTION FACTOR 1. THE QUALITY OF THE OFFEROR'S PROPOSAL TO CONDUCT ITS OPERATIONS IN A MANNER THAT FURTHERS THE PROTECTION, CONSERVATION AND PRESERVATION OF PARK AREA AND OTHER RESOURCES THROUGH ENVIRONMENTAL MANAGEMENT PROGRAMS AND ACTIVITIES, INCLUDING, WITHOUT LIMITATION, ENERGY CONSERVATION, WASTE REDUCTION, AND RECYCLING.**

Scoring: 0-3

**Note to Offeror:** The subfactors for this secondary selection factor focus on environmental management programs and activities that promote general environmental objectives such as waste reduction, fuel efficiency, recycling, etc. Please avoid overlap between your response here and your response to principal selection factor 1.

Please describe the steps you will take to promote environmentally sound practices into all aspects of your operation. At a minimum, discuss:

- a. energy conservation,
- b. waste reduction and environmental purchasing,
- c. recycling,
- d. any other environmental programs and actions you will undertake to minimize the impact of your operation on the general environment.

PROPOSAL PACKAGE FORM SECTION

Form Title	Related Subfactor
Business Organization and Credit Information Partnership or Sole Proprietor .....	3-1(a)
Business Organization and Credit Information Corporation.....	3-1(a)
Resume/Individual Experience and Related Background .....	3-3(c)

**BUSINESS ORGANIZATION AND CREDIT INFORMATION  
PARTNERSHIP OR SOLE PROPRIETOR**

<b>Name of Entity</b>	
<b>Address</b>	
<b>Telephone Number</b>	
<b>Fax Number</b>	
<b>Email Address</b>	
<b>Contact Person</b>	
<b>Title</b>	
<b>Tax ID #</b>	
<b>Form of Business:</b>	<input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Other (please describe) _____
<b>Years in Business</b>	

OWNERSHIP			
Names And Addresses Of Each Partner Or Sole Proprietor	Percentage of Ownership	Current Value of Business	Role in Providing Concession Services

**Credit Information**

1. Has Offeror ever defaulted from or been terminated from a management or Concession Contract, or been forbidden from contracting by a public agency or private company?
- ☐ YES                      ☐ NO

If YES, provide full details of the circumstances.

- 2) List any Foreclosures, Bankruptcies, Transfers in Lieu of Foreclosure and/or Work-Out/Loan Modification Transactions during the *past 10 years*. (If none, so indicate)

Name of Property	City State	Property Type	Approximate Loan Amount	Lender	Year of Event

Attach an explanation of circumstances, including resolution, bankruptcy plan, and/or other documentation as appropriate.

- 3) Describe any fines or penalties levied by government agencies during the *past 10 years*. (If none, so indicate)
- 4) Describe any pending litigation or current lawsuits which if adversely resolved would materially impact the financial position of the Offeror.





**BUSINESS ORGANIZATION AND CREDIT INFORMATION  
 CORPORATION**

*Complete separate form for the submitting corporation and the parent corporation (include all partners in a joint venture).*

<b>Name of Entity</b>	
<b>Address</b>	
<b>Telephone Number</b>	
<b>Fax Number</b>	
<b>Email Address</b>	
<b>Contact Person</b>	
<b>Title</b>	
<b>Tax ID#</b>	
<b>State of Incorporation</b>	
<b>Date of Incorporation</b>	

<b>OWNERSHIP</b>	<b>NUMBER AND TYPE OF SHARES OR PERCENTAGE OF OWNERSHIP</b>	<b>CURRENT VALUE OF INVESTMENT</b>
Names and Addresses of those with controlling interest or key principals of corporation		
<b>Total of All</b>		
<b>Total Shares Outstanding</b>		

<b>CORPORATE OFFICERS AND BOARD OF DIRECTOR</b>	<b>ADDRESS</b>	<b>TITLE AND/OR AFFILIATION</b>

**Credit Information**

- 1) Has Offeror ever defaulted from or been terminated from a management or Concession Contract, or been forbidden from contracting by a public agency or private company?

☐ YES

☐ NO

If YES, provide full details of the circumstances.

- 2) List any Foreclosures, Bankruptcies, Transfers in Lieu of Foreclosure and/or Work-Out/Loan Modification Transactions during the *past 10 years*. (If none, so indicate)

Name of Property	City State	Property Type	Approximate Loan Amount	Lender	Year of Event

Attach an explanation of circumstances, including resolution, bankruptcy plan, and/or other documentation as appropriate.

- 3) Describe any fines or penalties levied by government agencies during the past 10 years. (If none, so indicate)

- 4) Describe any pending litigation or current lawsuits (other than those covered adequately by insurance) which if adversely resolved would materially impact the financial position of the Offeror.

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<p style="text-align: center;"><b>RESUME</b> <b>INDIVIDUAL EXPERIENCE AND RELATED BACKGROUND</b></p>
--

**Name**  
**Address**  
**Telephone Number**  
**Fax Number**  
**Education, Degrees, Licenses, Designations, Special Skills**  
**Name of Current Employer**  
**Address**  
**Nature of Business**  
**Dates of Employment**  
**Title of Position Most Recently Held**  
**Description of Duties and Responsibilities (Include number of people supervised)**  
**Proposed Role in Concession Service**  
**Qualifications for that Role**  
**Estimated Time per Week Dedicated to that Role**  
**Former Employers in the air taxi industry**

## SECTION FOUR: DRAFT CONCESSION CONTRACT

***DRAFT***

### **Category III Contract**

**United States Department of the Interior  
National Park Service**

Denali National Park and Preserve

Airtaxi Service between Kantishna Airstrip and McKinley Park Airstrip  
and Scenic Air Tour Services from Kantishna Airstrip

Concession Contract No. CC-DENA030-05

\_\_\_\_\_  
[Name of Concessioner]

\_\_\_\_\_  
[Address, including email address and phone number]

**Doing Business As** \_\_\_\_\_

Covering the Period January 1, 2005 through December 31, 2014

This Contract is between the National Park Service and \_\_\_\_\_ (hereinafter referred to as "Concessioner"), a [Include only one:] [Corporation][Partnership][Sole Proprietorship], dba \_\_\_\_\_ under the authority of 16 U.S.C. 1 et. seq., including 16 U.S.C. 5901 et seq., and other laws that supplement and amend these laws. The Director and the Concessioner agree:

**Sec. 1. Term of Contract**

This Contract will be from January 1, 2005 until its expiration on December 31, 2014.

**Sec. 2. Services and Operations**

(a) Required and Authorized Visitor Services

The Concessioner must provide the following required Visitor Services within the Area: Airtaxi services between Kantishna airstrip and McKinley Park airstrip and scenic air tour services from the Kantishna airstrip.

The Concessioner may provide the following authorized Visitor Services within the Area: none

(b) Operation, Maintenance and Quality of Operation

The Concessioner must provide, operate and maintain the Visitor Services in accordance with this Contract in a manner considered satisfactory by the Director, including the nature, type and quality of the Visitor Services. The Concessioner's authority to provide Visitor Services under the terms of this Contract is nonexclusive. The Concessioner's operations and contract compliance will be evaluated on at least an annual basis.

No government owned personal property is assigned to the Concessioner.

(c) Operating Plan

The Director will establish and revise, as necessary, after consultation with the Concessioner, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan. The initial Operating Plan is attached to this Contract as Exhibit B.

(d) Rates

All rates and charges to the public by the Concessioner for Visitor Services must be reasonable and appropriate and must be approved by the Director.

(e) No Capital Improvements

The Concessioner may not construct any Capital Improvements upon Area lands.

**Sec. 3. Concessioner Personnel**

(a) The Concessioner must ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public.

(b) The Concessioner must establish appropriate screening, hiring, training, safety, employment, termination and other policies and procedures.

(c) The Concessioner must review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the

Area and enjoyment and protection of visitors and must take such actions as are necessary to correct the situation.

- (d) The Concessioner must maintain, to the greatest extent possible, a drug free work environment.

#### **Sec. 4. Environmental**

The Concessioner must utilize appropriate best management practices (practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract) in its provision of Visitor Services and other activities under this Contract.

#### **Sec. 5. Fees**

- (a) Franchise Fee

- (1) The Concessioner must pay a franchise fee to the Director as follows: *To be inserted in the final contract. The minimum fee is described in the Business Opportunity. Offerors may propose a higher fee in their response to Principal Selection Factor 5 in the Proposal Package.*

- (2) The Concessioner has no right to waiver of the fee under any circumstances.

- (b) Payments Due

- (1) Payment of the franchise fee is due on September 25 of each year.

- (2) All franchise fee payments consisting of \$10,000 or more, will be deposited electronically by the Concessioner in the manner directed by the Director.

- (c) Interest

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

#### **Sec. 6. Insurance**

The Concessioner must obtain and maintain during the entire term of this Contract at its sole cost and expense, coverage necessary to fulfill the obligations of this Contract. The insurance requirements are set forth in Exhibit D.

#### **Sec. 7. Records and Reports**

- (a) Accounting System

- (1) The Concessioner must maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system must be capable of providing the information required by this Contract. The Concessioner's system of accounts classification must be directly related to the Concessioner Annual Financial Report Form issued by the Director.

- (2) If the Concessioner's annual gross receipts are \$500,000 or more, the Concessioner must use the accrual accounting method.

(3) The Concessioner must keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

(1) The Concessioner must submit annually as soon as possible but not later than April 15, a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").

(2) If the annual gross receipts of the Concessioner are in excess of \$1,000,000, the financial statements must be audited by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(3) If annual gross receipts are between \$500,000, and \$1,000,000, the financial statements must be reviewed by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.

(4) If annual gross receipts are less than \$500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Reports

(1) Balance Sheet. If requested by the Director, within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessioner must submit to the Director a balance sheet as of the beginning date of the term of this Contract. The balance sheet must be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant.

(2) The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under this Contract or otherwise, including, but not limited to, operational information.

## **Sec. 8. Suspension, Termination, or Expiration**

(a) Termination and Suspension

(1) The Director may temporarily suspend operations under this Contract in whole or in part or terminate this Contract in writing at any time in order to protect Area visitors, protect, conserve, and preserve Area resources, or to limit Visitor Services in the Area to those that continue to be necessary and appropriate.

(2) The Director may terminate this Contract if the Director determines that the Concessioner has materially breached any requirement of this Contract.

(3) In the event of a breach of the Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the Contract for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the Contract for



default. Notwithstanding this provision, repeated breaches (two or more) of the same nature will be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 8(a).

(b) Requirements in the Event of Suspension, Termination or Expiration

(1) In the event of suspension or termination of this Contract for any reason or expiration of this Contract, no compensation of any nature will be due the Concessioner, including, but not limited to, compensation for personal property, or for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.

(2) Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessioner must, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, and repair any injury caused by removal of the property. This removal must occur within thirty (30) days (unless the Director in particular circumstances otherwise determines). Personal property not removed from the Area will be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner.

**Sec. 9. Assignment, Sale or Encumbrance of Interests**

This Contract may not be assigned [e.g. sold] or encumbered [e.g. mortgaged] without the approval of the Director in accordance with 36 CFR Part 51 with respect to proposed assignments and encumbrances.

**Sec. 10. General Provisions – See Addendum 1.**

Addendum 1 attached to this Contract is made a part of this Contract.

By:

CONCESSIONER:

UNITED STATES OF AMERICA

\_\_\_\_\_  
(Title) (Company Name)

\_\_\_\_\_  
(Title), National Park Service

Date: \_\_\_\_\_

Date: \_\_\_\_\_

[Corporation]

Attest

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attachments:

Addendum 1 – General Provisions  
Exhibit A – Nondiscrimination  
Exhibit B – Operating Plan  
Exhibit C – Reserved  
Exhibit D – Insurance

## ADDENDUM 1 GENERAL PROVISIONS

### 1. Definitions.

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

- (a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.
- (b) "Area" means the property within the boundaries of Denali National Park and Preserve.
- (c) "Days" means calendar days.
- (d) "Director" means the Director of the National Park Service, and his duly authorized representatives.
- (e) "Exhibit" means the various exhibits, which are attached to this Contract, each of which is hereby made a part of this Contract.
- (f) "Gross Receipts" means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:
  - (1) Intracompany earnings on account of charges to other departments of the operation (such as laundry);
  - (2) Charges for employees' meals, lodgings, and transportation;
  - (3) Cash discounts on purchases;
  - (4) Cash discounts on sales;
  - (5) Returned sales and allowances;
  - (6) Interest on money loaned or in bank accounts;
  - (7) Income from investments;
  - (8) Income from subsidiary companies outside of the Area;
  - (9) Sale of property other than that purchased in the regular course of business for the purpose of resale;
  - (10) Sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, hunting and fishing license fees, and postage stamps, provided that the amount excluded will not exceed the amount actually due or paid government agencies;
  - (11) Receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, must be included in gross receipts. However, only revenues actually received by the Concessioner from coin-operated telephones must be included in gross receipts. All revenues received from charges for in-room telephone or computer access must be included in gross receipts.

- (g) "Superintendent" means the manager of the Area.
- (h) "Visitor Services" means the accommodations, facilities and services that the Concessioner is required and/or authorized to provide by this Contract.

### 2. Legal and Regulatory Compliance

**This Contract, operations under it by the Concessioner, and its administration by the Director, are subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Concessioner's sole cost and expense. The Concessioner must give the Director immediate written notice of any violation of Applicable Laws**

**by the Concessioner, including its employees, agents or Contractors, and must promptly correct any violation.**

### 3. Services and Operations

- (a) All promotional material, regardless of media format (i.e., printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this Contract must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.
- (b) The Concessioner will provide Federal employees reduced rates, in accordance with guidelines established by the Director, when conducting necessary official business. Complimentary or reduced rates and charges may otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.
- (c) The Director and Comptroller General of the United States, or any of their duly authorized representatives, will have access to the records of the Concessioner as provided by the terms of Applicable Laws.
- (d) Subconcession or other third party agreements, including management agreements, for the provision of Visitor Services required and/or authorized under this Contract, whether in consideration of a percentage of revenues or otherwise, are not permitted.
- (e) The Concessioner will ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner's activities. Discoveries of any archeological resources by the Concessioner will be promptly reported to the Director.

### 4. Environmental Data, Reports, Notifications, and Approvals

- (a) Inventory of Hazardous Substances and Inventory of Waste Streams. The Concessioner must submit to the Director, upon request, an inventory of hazardous chemicals used and stored in the Area by the Concessioner. The Concessioner must obtain the Director's approval prior to using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Contract. The Concessioner must also submit to the Director, upon request, an inventory of all waste streams generated by the Concessioner under this Contract.
- (b) Reports. The Concessioner must submit to the Director copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Laws to be submitted to regulatory agencies. The Concessioner must also submit to the Director any environmental plans for which coordination with Area operations are necessary and appropriate, as determined by the Director in accordance with Applicable Laws.
- (c) Notification of Releases. The Concessioner must give the Director immediate written notice of any discharge, release or threatened release (as these terms are defined by Applicable Laws) within or at the vicinity of the Area (whether solid, semi-solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.
- (d) Notice of Violation. The Concessioner must give the Director in writing immediate notice of any written threatened or actual notice of violation from other regulatory agencies of any Applicable Law arising out of the activities of the Concessioner, its agents or employees.
- (e) Communication with Regulatory Agencies. The Concessioner must provide timely written advance notice to the Director of communications, including without limitation, meetings, audits, inspections, hearings and other proceedings, between regulatory agencies and the Concessioner related to compliance with Applicable Laws concerning operations under this Contract. The Concessioner must also provide to the Director any written materials prepared or received by the Concessioner in advance of or subsequent to any such communications. The Concessioner must allow the Director to participate in any such communications. The Concessioner must also provide timely notice to the Director following any unplanned communications between regulatory agencies and the Concessioner.

- (f) Cost Recovery for Concessioner Environmental Activities. If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and Contractors, as set forth in this section, or correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in its sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner will be liable for and must pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section precludes the Concessioner from seeking to recover costs from a responsible third party.

## 5. Fees

### (a) Adjustment of Franchise Fee

- (1) The Concessioner or the Director may request, in the event that either considers that extraordinary, unanticipated changes have occurred after the effective date of this Contract, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase "extraordinary, unanticipated changes" will mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this Contract which have or will significantly affect the probable value of the privileges granted to the Concessioner by this Contract. For the purposes of this section, the phrase "probable value" means a reasonable opportunity for net profit in relation to capital invested and the obligations of this Contract.
- (2) The Concessioner or the Director must make a request for a reconsideration by mailing, within sixty (60) days from the date that the party becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the other party that includes a description of the possible extraordinary, unanticipated changes and why the party believes they have affected or will significantly affect the probable value of the privileges granted by this Contract.
- (3) If the Concessioner and the Director agree that extraordinary, unanticipated changes have occurred, the Concessioner and the Director will undertake good faith negotiations as to an appropriate adjustment of the franchise fee.
- (4) The negotiation will last for a period of sixty (60) days from the date the Concessioner and the Director agree that extraordinary, unanticipated changes occurred. If the negotiation results in agreement as to an adjustment (up or down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, prospectively as of the date of agreement.
- (5) If the negotiation does not result in agreement as to the adjustment of the franchise fee within this sixty (60) day period, then either the Concessioner or the Director may request binding arbitration to determine the adjustment to franchise fee in accordance with this section. Such a request for arbitration must be made by mailing written notice to the other party within fifteen (15) days of the expiration of the sixty (60) day period.
- (6) Within thirty (30) days of receipt of such a written notice, the Concessioner and the Director will each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. Unless otherwise agreed by the parties, the arbitration panel will establish the procedures of the arbitration. Such procedures must provide each party a fair and equal opportunity to present its position on the matter to the arbitration panel.
- (7) The arbitration panel will consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee (up, down or unchanged) that is consistent with the probable value of the privileges granted by this Contract within sixty (60) days of the presentations.
- (8) Any adjustment to the franchise fee resulting from this section will be prospective only.
- (9) Any adjustment to the franchise fee will be embodied in an amendment to this Contract.
- (10) During the pendency of the process described in this section, the Concessioner will continue to make the established franchise fee payments required by this Contract.

## 6. Indemnification

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or Contractors under this Contract. This indemnification will survive the termination or expiration of this Contract.

## 7. Notice of Bankruptcy or Insolvency

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity. For purposes of the bankruptcy statutes, NPS considers that this Contract is not a lease but an executory Contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to such bankruptcy or insolvency action.

## 8. Additional Provisions

- (a) This Contract contains the sole and entire agreement of the parties. No oral representations of any nature form the basis of or may amend this Contract. This Contract may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.
- (b) This Contract does not grant rights or benefits of any nature to any third party.
- (c) The invalidity of a specific provision of this Contract will not affect the validity of the remaining provisions of this Contract.
- (d) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party will not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract will not be deemed to be a waiver of any preceding breach of any term of the Contract.
- (e) No member of, or delegate to, Congress or Resident Commissioner will be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction will not be construed to extend to this Contract if made with a corporation or company for its general benefit.
- (f) This Contract is subject to the provisions of 43 CFR, Subtitle A, Part 12, Subpart D, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.



## **Exhibit A Nondiscrimination**

### **Section I: Requirements Relating to Employment and Service to the Public**

#### **A. Employment**

During the performance of this CONTRACT the Concessioner agrees as follows:

- (1) The Concessioner will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disabling condition. The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provision of this nondiscrimination clause.
- (2) The Concessioner will, in all solicitations or advertisements for employees placed by on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin, or disabling condition.
- (3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed \$50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.
- (5) The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this CONTRACT or with any of such rules, regulations, or orders, this CONTRACT may be canceled, terminated or suspended in whole or in part and the Concessioner may be declared ineligible for further Government concession contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Concessioner will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction

by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

#### B. Construction, Repair, and Similar Contracts

The preceding provisions A(1) through A(8) governing performance of work under this CONTRACT, as set out in Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this CONTRACT, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this CONTRACT, and for that purpose the term "CONTRACT" shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term "Concessioner" shall be deemed to refer to the Concessioner and to contractors awarded contracts by the Concessioner.

#### C. Facilities

##### (1) Definitions: As used herein:

- (a) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;
- (b) Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

##### (2) The Concessioner is prohibited from:

- (a) Publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, age, national origin, or disabling condition;
- (b) Discriminating by segregation or other means against any person.

### Section II: Accessibility

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

#### A. Discrimination Prohibited

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

- (1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;
- (2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- (3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;

- (4) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;
- (5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;
- (6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or
- (7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

B. Existing Facilities

A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.



## **Exhibit B Draft Operating Plan**

### **I. Introduction**

This Operating Plan will serve as a supplement to Concession Contract DENA030-05. It describes specific operating responsibilities of the Concessioner and the NPS with regard to those lands utilized by the Concessioner for the purposes authorized by the Contract. In the event of any conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, will prevail.

This plan will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent of the Area. Any revisions must be consistent with the main body of this Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract.

### **II. Annual Required Reports**

In addition to the reports required by the Contract, the Concessioner will provide the Superintendent the following reports annually:

- |                                      |   |
|--------------------------------------|---|
| • Annual Financial Report            | April 15  |
| • Certificate of Insurance           | By startup of operations and as renewed                   |
| • Concessioner's Roster of Employees | April 1 or 30 days prior to operations, whichever earlier |
| • Brochures and Advertising          | April 1 or 30 days prior to operations, whichever earlier |
| • Proposed rates                     | 30 days prior to using rate each year                     |
| • NPS Activity report                | September 25  |

### **III. Operations**

#### **A. Scope of Services:**

1. The Concessioner is authorized to provide no more than 150 landings at the McKinley Park Airstrip as a result of air taxi service between the Kantishna and McKinley Park airstrips.
2. The Concessioner is authorized to provide no more than seven landings per day at the McKinley Park Airstrip.
3. No scenic air tour services may be originated at the McKinley Park Airstrip.
4. The plane will contain at least one client on both portions of the roundtrip air taxi flights between the Kantishna and the McKinley Park airstrips on at least half of the total annual limit of landings.
5. The Concessioner is authorized to provide no more than 300 scenic air tour trips per year originating from the Kantishna airstrip.
6. The Concessioner is authorized ten (10) trips on the park road to Kantishna during the core operating allocation season. The core operating allocation season is the period extending between the last Saturday before Memorial Day and the second Thursday after Labor Day.
7. All airplanes used by the Concessioner will be properly licensed and maintained in a safe operating condition in conformance with Federal Aviation Administration (FAA) requirements for the type of activity provided. All other Federal and Alaska State requirements must be adhered to as applicable to the operation.

8. Any change in equipment requires the approval of the Superintendent. The evaluation of new equipment will be based on safety, quiet technology, and impacts on other park resources and park visitors.
9. The Concessioner is authorized to park airplanes used in this operation at the Kantishna and the McKinley Park Airstrips during the operating season. Location of airplane parking must be in accordance with instruction from a designated park staff member.
10. The Concessioner will make every reasonable effort to adjust the elevation and location of their approaches and departures to the Kantishna airstrip to avoid over-flying the lodges in the area.
11. The Concessioner is expected to enhance the visitor's experience through the sharing of a wide range of information with clients. The Concessioner shall provide clients with information regarding NPS mission, local resource protection and regulations. Additional suggested topics include: geology, natural and cultural history, ecology of the areas, early exploration and climbing history of the Denali region.
12. Collection of entrance fees:
  - a. The Concessioner will collect recreational entrance fees from visitors utilizing this service if they have not already paid a park entrance fee.
  - b. Fees collected by the Concessioner will be submitted to the park by the 15<sup>th</sup> day of the month following the month in which the services were rendered. Payment to the park for the month of September will include all unremitted funds from the previous month and will be remitted by September 25 of each year.
13. The Concessioner is responsible for the daily cleaning, stocking, and annual pumping of the toilet facility located at the Kantishna air strip. The Concessioner may contract the NPS to perform the annual pumping. The NPS will be responsible for any cyclic maintenance to the structure.
14. Incident Reports: The Concessioner will immediately report to the NPS Communication Center (907-683-2294) any fatalities; injuries requiring more than minor first aid treatment; and any known or suspected violations of the law occurring within the park.

## **B. Resource Protection**

The Concessioner must take adequate precaution to protect the resource.

1. The Concessioner is responsible for removing all of their trash and garbage generated by their activities from within the park.
2. The Concessioner is authorized to maintain a self-contained fuel storage tank at the Kantishna airstrip and the McKinley Park Airstrip. The facility must be temporary in nature and meet established containment requirements. A designated member of park staff will coordinate fueling issues. If the NPS fuel tanks are removed from the McKinley Park airstrip, the Concessioner will be required to remove their fuel tanks.
3. Fuel must be transported, stored, and dispensed in accordance with Alaska State and Federal law.
4. The Concessioner will stage and maintain a fuel spill kit at all fuel tanks.
5. The Concessioner will avoid flying along the road corridor, except in an emergency. The road corridor is defined as an area of five miles on either side of the park road.
6. Between Kantishna and McKinley Park airstrips, the Concessioner will not use the same flight path more than 7 times in a day and not more than once per hour.

7. The Concessioner is required to have all aircraft maintain a minimum altitude of 2000 feet above ground level (e.g. 2000 feet AGL) whenever possible to avoid disruption of wildlife movement and subsistence and recreational activities.
8. Quieter technology and operations

*Note: Any operating details on quieter technology or quieter operations identified in the proposal will be added here in the final contract.*

#### **C. Staffing**

1. The Concessioner shall not employ, in any status, a NPS employee, his/her spouse, or minor children of NPS employees without the Superintendent's approval. It is the responsibility of National Park Service employees to submit a written request to the Superintendent.
2. The Concessioner shall not employ in any status the spouse or dependent children of the Superintendent, Assistant Superintendent, Concessions staff or Environmental Manager.
3. The Concessioner will orient employees of park regulations and requirements which affect their employment and activities while providing services within Denali National Park and Preserve.

#### **D. Operational Evaluations**

1. The NPS and the Concessioner shall separately inspect and monitor concession services with respect to NPS policy, applicable standards, authorized rates, safety, impacts on natural resources, and visitor concerns and reactions. The NPS will evaluate all services provided by the Concessioner on the basis of public safety and health standards, operating requirements, and visitor satisfaction. Location managers will be contacted at the time of evaluations so that a representative of the Concessioner can accompany the NPS evaluator.
2. Upon request, the Concessioner will provide the NPS with contact information for their clients for the purpose of conducting evaluation of services.

#### **E. Complaints**

1. The NPS will send complaints or comments from the public regarding Concessioner services to the Concessioner for investigation and response in a timely manner. The Concessioner will provide a copy of the response to the Superintendent.
2. The Concessioner will provide copies of all written comments received from clients concerning services provided within Denali National Park and Preserve within 30 days of their receipt.

**Dated At Denali National Park and Preserve this \_\_\_\_\_ day of \_\_\_\_\_.**

**Concessioner**

**National Park Service**

\_\_\_\_\_

\_\_\_\_\_

**Title:** \_\_\_\_\_

**Superintendent  
Denali National Park and Preserve**

**Date:** \_\_\_\_\_

## Exhibit D Insurance Requirements

### I. General

The Concessioner must obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. The Director will approve the types and amounts of insurance coverage purchased by the Concessioner.

At the request of the Director, the Concessioner must, at the time insurance is first purchased and annually thereafter, provide the Director with a Certificate of Insurance that accurately details the conditions of the policy as evidence of compliance with this section. The Concessioner must provide the Director immediate written notice of any material change in the Concessioner's insurance program hereunder, including without limitation, cancellation of any required insurance coverages.

From time to time, as conditions in the insurance industry warrant, the Director may modify this Exhibit, provided that any additional requirements must be reasonable and consistent with the types of insurance a prudent businessperson would purchase in similar circumstances.

The Director will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

### II. Liability Insurance.

The Concessioner must provide commercial general liability insurance against claims arising out of or resulting from the acts or omissions of the Concessioner or its employees, agents or contractors, in carrying out the activities and operations required and/or authorized under this Contract.

All liability policies must specify that the insurance company will have no right of subrogation against the United States of America and must provide that the United States of America is named an additional insured.

This insurance must be in the amount commensurate with the degree of risk and the scope and size of the activities required and/or authorized under this Contract. The following Liability Coverages and limits are to be maintained at a minimum, all of which are to be written on an occurrence basis only. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with Excess or Excess "Umbrella" Liability. Furthermore, the commercial general liability package must provide no less than the coverages and limits described.

#### A. Commercial General Liability

1. Coverage will be provided for bodily injury, property damage, personal or advertising injury liability (and must include Contractual Liability and Products/Completed Operations Liability).

Bodily Injury and Property Damage Limit	\$300,000
Products/Completed Operations Limit	same
Personal Injury & Advertising Injury Limit	same
General Aggregate	same
Fire Damage Legal Liability ``per fire"	same

2. The liability coverages may not contain the following exclusions/limitations:
  - a. Athletic or Sports Participants
  - b. Products/Completed Operations
  - c. Personal Injury or Advertising Injury exclusion or limitation
  - d. Contractual Liability limitation
  - e. Explosion, Collapse and Underground Property Damage exclusion
  - f. Total Pollution exclusion

- g.
3. If the policy insures more than one location, the General Aggregate limit must be amended to apply separately to each location, or, at least, separately to the appropriate NPS location(s).

B. Automobile Liability

Coverage will be provided for bodily injury or property damage arising out of the ownership, maintenance or use of ``any auto," Symbol 1. (Where there are no owned autos, coverage applicable to ``hired" and ``non-owned" autos, ``Symbols 8 & 9," will be maintained.)

Each Accident Limit	1 to 6 persons, \$300,000	7 to 12 persons,
\$500,000		

C. Liquor Liability (if applicable)

Coverage will be provided for bodily injury or property damage including damages for care, loss of services, or loss of support arising out of the selling, serving or furnishing of any alcoholic beverage.

Each Common Cause Limit	Liquor sales not
authorized.	
Aggregate Limit	

D. Aircraft Liability (if applicable)

Coverage will be provided for bodily injury or property damage arising out of the use of any aircraft.

Each Person Limit	Limits will be the same as required by the US Department of Transportation/Federal Aviation Administration
Property Damage Limit	Same
Each Accident Limit	Same

E. Excess Liability or Excess "Umbrella" Liability

This coverage is not required, but may be used to supplement any of the above Liability coverage policies in order to arrive at the required minimum limit of liability. If maintained, coverage will be provided for bodily injury, property damage, personal or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Excess "Umbrella" Liability policy.

F. Special Provisions for Use of Aggregate Policies.

At such time as the aggregate limit of any required policy is (or if it appears that it will be) reduced or exhausted, the concessioner may be required to reinstate such limit or purchase additional coverage limits.

I. Workers Compensation and Employers' Liability.

Coverage will comply with the statutory requirements of the state(s) in which the concessioner operates.

II. Insurance Company Minimum Standards.

All insurance companies providing the above described insurance coverages must meet the minimum standards set forth below:

1. All insurers for all coverages must be rated no lower than A-by the most recent edition of Best's Key Rating Guide (Property-Casualty Edition).
2. All insurers for all coverages must have a Best's Financial Size Category of at least VIII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition).
3. All insurers must be admitted (licensed) in the state in which the concessioner is domiciled.

### III. Certificates of Insurance.

All certificates of Insurance required by this Contract must be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number ("AMB#"). The name, address and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the concessioner, upon written request of the Director, must provide the Director with a complete copy of any of the insurance policies (or endorsements thereto) required herein to be maintained by the concessioner.

### IV. Statutory Limits

In the event that a statutorily required limit exceeds a limit required herein, the higher statutorily required limit will be considered the minimum to be maintained.